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PTO/SB/64 (10/01)

Approved for use through 10/31/02. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
**250308-1020**First Named Inventor: **Jongsma et al.**Application No.: **09/445,480**Filed: **July 7, 2000**Group Art Unit: **2871**Examiner: **Anne Kubelik**Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely Appeal Brief with the United States Patent and Trademark Office. Pursuant to 37 CFR 1.137(b)(1), Applicant's herewith submit an RCE accompanied by a submission and the requisite fee in compliance with 37 CFR 1.114 responsive to the Advisory Action mailed April 2, 2004.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee – required for all utility and patent applications filed before June 8, 1995, and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition Fee**☐ Small entity – fee **\$650.00** (37 C.F.R. 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☒ Other than small entity – fee **\$1,300.00** (37 C.F.R. 1.17(m))☐ No Fee – As set forth in the accompanying submission, no fee is believed to be due in connection with this submission, as the abandonment occurred entirely due to an error committed by the PTO. However, should any fee be required, you are hereby authorized to charge any such fee to deposit account 20-0778.**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in the form of an **RCE** and a **Reply to Advisory Action** (identify type of reply):

- ☐ has been filed previously on \_\_\_\_.
- ☒ is enclosed herewith (see RCE and Reply to Advisory Action).

B. The RCE fee of **\$770**

- ☐ has been paid previously on \_\_\_\_.
- ☒ is enclosed herewith.

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### 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d) of **\$55.00** for a small entity or **\$110.00** for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. **Statement.** The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

The above-identified application became abandoned for failure to timely submit an Appeal Brief by April 11, 2004. Since filing the Notice of Appeal, Applicants have exchanged numerous correspondence with the Office in an effort to place the application in condition for allowance and obviate the need for filing an Appeal Brief. Applicants submitted a Supplemental Response to Office Communication on March 16, 2004, with the belief that the application was put in condition for allowance. However, because the deadline for filing the Appeal Brief expired on March 11, 2003, the Examiner was unable to enter the claim amendments and place the application in condition for allowance. The claim amendments were not entered, because the application became abandoned for failure to file the Appeal Brief. The Office has sent Applicants an Advisory Action, and the Applicants reply to the Advisory Action herewith.

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4/28/04  
Date

Cynthia J. Lee  
Signature

Telephone Number: (770) 933-9500

Cynthia J. Lee, Reg. No. 46,033

Typed or printed name

Thomas, Kayden, Horstemeyer & Risley LLP  
100 Galleria Parkway  
Suite 1750  
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#### Enclosures:

- ☒ Fee Payment  
☒ Reply to Advisory Action of April 2, 2004  
☐ Terminal Disclaimer Form  
☐ Additional sheets containing statements establishing unintentional delay  
☒ Other: RCE

### CERTIFICATE OF MAILING [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

04.28.04  
Date

Gloria Simmons  
Signature

Gloria Simmons  
Typed or printed name